

Defendant moved to dismiss this suit for insufficient service of process and lack of personal jurisdiction.

DISCUSSION

A defendant may move to dismiss for insufficient service of process under Federal Rule of Civil Procedure 12(b)(5).


Rule 4 requires that a domestic corporation be served “by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process.” Fed. R. Civ. P. 4(h)(1)(B). A corporation’s attorney is not its agent for purposes of service of process unless expressly or impliedly designated. *United States v. Ziegler Bolt & Parts Co.*, 111 F.3d 878, 881 (Fed. Cir. 1997).

Here, plaintiff failed to show that Mr. Deak or Troutman Sanders was explicitly or impliedly appointed as an agent authorized to accept service of process. The only evidence provided by plaintiff is a May 20, 2019 letter from Mr. Deak and Troutman Sanders responding to a May 6, 2019 correspondence sent by plaintiff to defendant. This letter is not enough. The firm’s representation of defendant in one capacity does not mean that the firm is authorized to receive service of process for a lawsuit.

CONCLUSION

For the above reasons, defendant’s motion to dismiss [DE 12] is GRANTED. This case is DISMISSED WITHOUT PREJUDICE for insufficient service of process. The clerk is DIRECTED to close the case.

SO ORDERED, this 22 day of October, 2019.


TERRENCE W. BOYLE
CHIEF UNITED STATES DISTRICT JUDGE